

A Defense of Abortion

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– Thought Experiments:

- Thought Experiments are often used in ethical arguments. Their purpose is generally to abstract away from a problematic (perhaps emotionally charged) situation and isolate the morally relevant factors in order arrive at an objective conclusion.
 - Killing vs. Letting Die debate:
 - Nephew in the Bathtub story.
 - Trolley case.

Two kinds of thought experiments:

1. Designed to isolate and explore one single moral aspect of a question. Seen above.
2. Designed to reflect **all morally relevant aspects** of a particular situation. These are called analogies.

- Analogies:
- Suppose one doesn't know what to do in a particular situation A. But there is a situation B which seems equivalent in every morally relevant sense (morally analogous) and which elicits a clear moral response, then one should accept that this response is appropriate in situation A as well.
- Either that or argue that the analogy is faulty in one of the two following ways:
 - 1) Deny the analogy: “No, case B is not equivalent in every morally relevant sense to situation A. There is, in fact, a morally relevant difference between cases A and B. So a conclusion drawn from B does not automatically apply to situation A.”
 - 2) Deny the intuitive moral response to situation B: “No, situation B doesn't convince me that I should do X. So even though it is equivalent in every morally relevant way, situation B doesn't give me any guidance regarding action X in situation A.”

Otherwise the analogy stands and you must accept the conclusion.

- JJ Thomson begins by addressing the argument that a fetus is a human with all the attendant rights (a person) from the moment of conception. Below is her version of a common form of the argument.
 - ① Development of a human being from conception to birth is a continuous process.
 - ② To draw a line anywhere in the process and say “before this point, not a person, after this point, a person” is arbitrary and unfounded. (no good reason to select any point rather than another)

Conclusion: Personhood begins at conception. A Freshly implanted ovum of a few cells is a human person.

- JJ Thomson accepts premises of this argument, but points out that the same argument would conclude that an acorn is an oak tree.
- “A newly fertilized ovum, a newly implanted clump of cells, is no more a person than an acorn is an oak tree.”
- But this is not the debate JJT wants to have, instead:
 - She grants her opponents their primary premise: That personhood begins at the moment of conception!!!

- Standard Pro-Life Argument

- ① The fetus is a person.
- ② Every person has a right to life.
- ③ Therefore the fetus has a right to life.
- ④ A mother has a right to determine what happens to her body.
- ⑤ The fetus' right to life is “stronger and more stringent” than the mother's right to her own body.

Conclusion 1: The fetus may not be killed.

Conclusion 2: Abortion is impermissible.

- JJT asks us to consider the following situation:
- The Violinist Case:
 - You are kidnapped.
 - Wake up in bed next to a famous violinist.
 - He has a kidney ailment and you alone are the right blood type to help.
 - You have been hooked up to him by the musicians society so that now your kidneys are filtering his blood.
 - If you unhook the violinist will die.
 - He needs this aid for.....9 months
 - Or 9 years?
 - Or permanently?

The obvious question is:
Are you allowed to unhook from
the violinist?

- The doctors tell you:
- “Look, we’re sorry the society of music lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him.”
- “All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person’s right to life outweighs that. So you can never be unplugged from him.”
- This is the standard argument applied to the violinist case.

- Most important dis-analogy, the kidnapping.
- The forcible hooking up to the violinist is only analogous to pregnancy in cases of rape.
- So if we buy the analogy our intuitions have told us that it is permissible to abort in cases of pregnancy resulting from rape. This seems eminently plausible. But the standard argument does not allow for it.
- Is simply adding an exception for cases of rape to the standard argument a possibility?
- “Surely the question of whether you have a right to life at all, or how much of it you have, shouldn’t turn on the question of whether or not you were the product of rape.”

- The “Extreme Position”
- No exceptions for abortion in cases of rape, **or in the case that the pregnancy threatens the life of the mother!**
- In the latter case we have the following situation
 - ① The fetus has a right to life.
 - ② The mother has a right to life
 - ③ Abortion means the fetus dies.
 - ④ No abortion means the mother dies.
- So whose right do we respect??

- ① The fetus has a right to life.
 - ② The mother has a right to life
 - ③ Abortion means the fetus dies.
 - ④ No abortion means the mother dies.
 - ⑤ AND The mother has a right to decide what happens in and to her own body.
- So whose right to we respect??
 - It seems at this point that the sum total of the mother's rights outweigh the fetus' rights. So this is a situation in which the pro-life position could make an exception consistent with the standard argument. But those who take the "extreme position" don't. Instead, they focus on the supposed difference between killing and letting die.

- Killing vs. Letting Die
- Many believe that “directly killing” is always morally worse than “letting die.”
- Further they claim that abortion is direct killing and not aborting and allowing the mother to succumb to the medical problems associated with the pregnancy is letting die. Therefore the former is impermissible, and the latter must be our choice.
- JJT responds with a **modified version of the violinist case**.
- Also with the “**expanding baby case**.” P. 96

- 3rd Party Participation

- So the mother may unhook herself, but does that automatically mean that others may do it for her?
- Expanding Baby again, and Coat analogy. P. 96-97.
- Does impartiality demand that the bystander not choose between mother and child?
- If not, why?
- Must a bystander choose between mother and child?
- If not, why?

- JJT argues that a 3rd party MAY intervene. It is permissible, **but not obligatory**, for a third person to take the coat from Jones and give it to Smith, or for a bystander to help the expanding baby's mother, or, analogously, a doctor to perform an abortion to save the mother's life. The demands of impartiality allow the 3rd party intervention because of the relevant differences between mother and fetus.

- It now seems clear that abortion to save the mother's life is permissible. It also seems clear that while our intuitions want to provide an exception for cases of rape (analogous to the violinist) but the standard argument does not allow for this. **So what is wrong with the standard argument?**
- According to JJT, the standard argument “treats the right to life as though it were unproblematic. It is not.”
- **What does it mean to have a Right to Life???**

- 1st Possible Definition of a “Right to Life”:
- A right to life is the right to everything that one minimally needs to continue living.
- “But suppose that what in fact is the bare minimum a man needs for continued life is something he has no right at all to be given?” P. 98

If I am sick unto death, and the only thing that will save my life is the touch of Henry Fonda’s cool hand on my fevered brow, then all the same, I have no right to it. It would be frightfully nice of him to fly in from the west coast to provide it. [or perhaps some friends might kidnap him for me] But I have no right against anybody that he should do this for me.

- For a more modern version of JJT's point:
- If for some reason the only thing that will keep you alive is if Brangelina adopt you, do you have a right against them that they should do so? It seems clear that you don't. It would be "frightfully nice" of them to do so, but it is not your right.

- 2nd Possible definition of a “Right to Life.”
- The right to life means that you have a right not to be killed.
- Again, this means that the violinist has a right against everyone, including yourself, that you refrain from unplugging yourself, even if that means your death! This seems implausible.

- 3rd Possible definition of a “Right to Life.”
- The right to life means that you have a right not to be killed unjustly.
- “I am arguing only that having a right to life does not guarantee having either a right to be given the use of or a right to be allowed continued use of another person’s body—even if one needs it for life itself. So the right to life will not serve the opponents of abortion in the very simple and clear way in which they seem to have thought it would.” P. 99.

- Now we are presented with another new question:
- Is abortion an unjust killing?
- The answer depends heavily on what circumstances give the fetus a right to the use of the mother's body. We have determined that its mere presence with a right to life and dependence on the mother's body don't do so, but what might?
- Answer, if the mother grants the fetus such a right.

- How might it be claimed that the mother granted the fetus a right to her body?
- “Suppose a woman voluntarily indulges in intercourse, knowing of the chance it will issue in pregnancy, and then she does become pregnant; is she not in part responsible for the presence, in fact the very existence, of the unborn person inside her? No doubt she did not invite it in. But doesn’t her partial responsibility for its being there itself give it a right to the use of her body?” P. 100

- Does even partial responsibility for the presence of a person mean that that person has a right to stay?
 - Burglar scenario
 - People seed case
 - JJT's answer, sometimes, but surely not always!

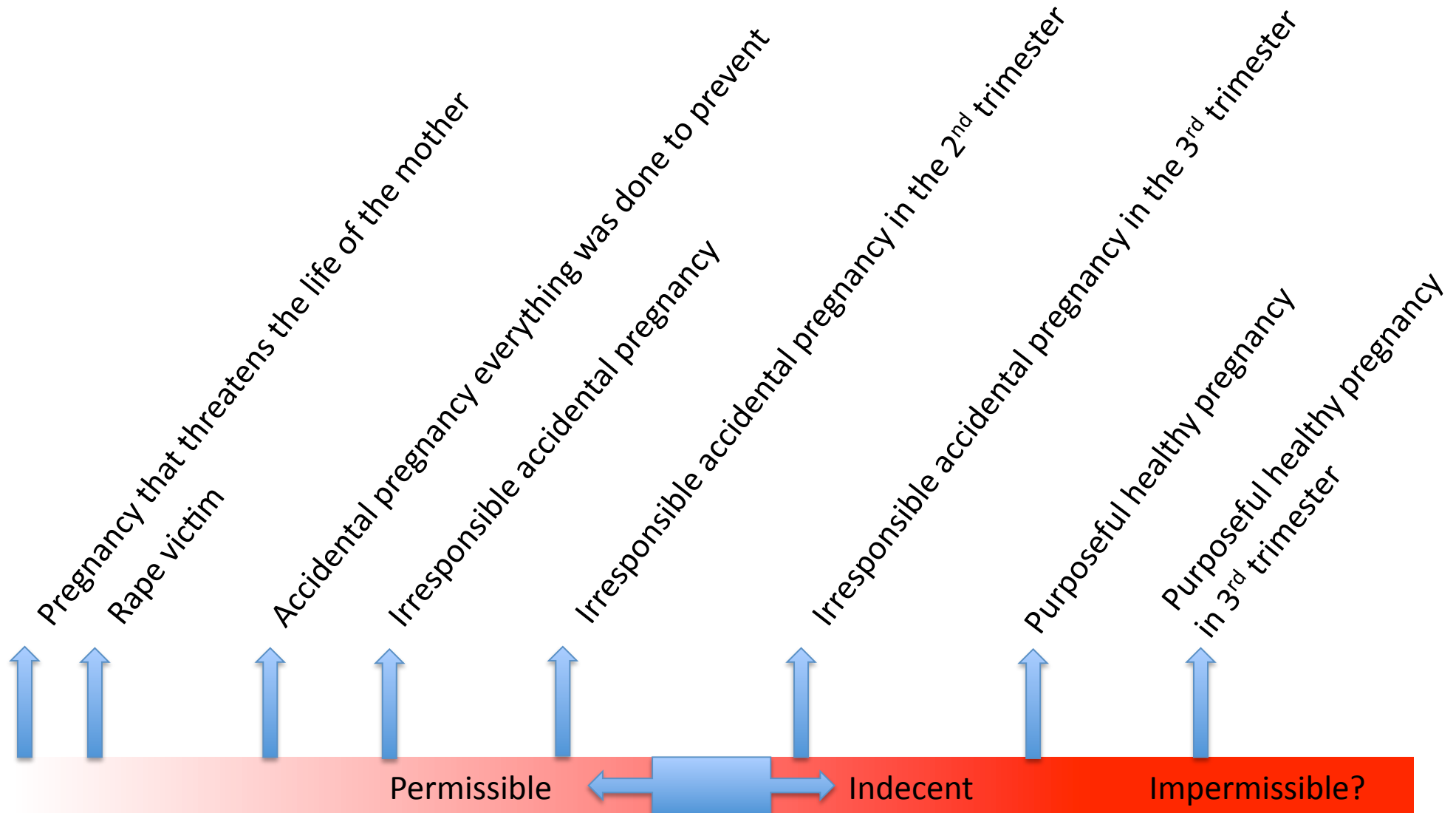
- “Some may argue that you are responsible for its rooting, that it does have a right to your house, because after all you *could* have lived out your life with bare floors and furniture or with sealed windows and doors. But this won’t do—for by the same token anyone can avoid pregnancy due to rape by having a hysterectomy, or anyway by never leaving home without a (reliable!) army.”
P. 101

- Oughts, Rights and Samaritans
- JJT concedes that there are situations in which it is the case that the woman **ought not** get an abortion. But not directly as a simple result of the fetus' right to life.
- According to JJT there is a level of minimal human decency we must not fall below, **regardless of whether someone else's rights are binding us.**
- Often “oughts” are used to imply rights. Such as:
You ought to pay back your student loans
- But this needn't always be the case.

- The Brothers with Chocolate cases 1 and 2:
 1. Chocolates are given to both brothers together. Big brother **ought** to give his little brother some chocolates because they belong equally to him. Little brother has a claim right to the chocolate.
 2. Chocolates are given to the big brother alone. Big brother intuitively still **ought** to give some to little brother who is sitting next to him salivating and staring at the chocolate. But the little brother has no **right** to the chocolate.
- “If the boy refuses to give his brother any he is greedy, stingy, callous—but not unjust.” P. 102

- These considerations support the idea of some form of minimal samaritanism.
- That is, a minimum amount of altruism, where one goes out of one's way to aid when one is not strictly required to.
- **Kitty Genovese Story.**
- According to JJT, at some point it may become the case that even in an accidental pregnancy the mother may be bound by an idea of minimal decency not to abort.
- “It would be indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month, and wants the abortion just to avoid the nuisance of postponing a trip abroad.”

Estimated interpretation of JJT's position on the permissibility of abortion



- The previous attempted sketch of JJ Thomson's position leaves a lot to be determined.
- She is very unclear where the boundary between permissible and indecent is.
- It is also unclear whether a fetus can actually gain a right to the mother's body if she does explicitly invite it in (meaningful steps were taken specifically to create the pregnancy such as hormones or IVF). Should such an "invitation" be given, it seems that the abortion would then be impermissible, not just indecent. JJ Thomson doesn't address this, hence the ? after "impermissible" on the scale.
- There are lots of cases she fails to bring up. What about fetus' with genetic defects? Even if their creation was purposeful?
- But we may see this as a strength of her arguments rather than a weakness. She does not claim to have established some universal right to, or prohibition of abortion. Her discussion is nuanced and difficult